sistent with the defendant's fundamental privilege to make and sell what he chooses, precautions shall be taken to prevent confusion as to the source of the product. *Elgin National Watch Co. v. Illinois Watch Case Co.* (1900) 179 U. S. 665, 21 Sup. Ct. 270 ("Elgin" watches); *Samson Cordage Works v. Puriton Co.* (1915, C. C. A. 6th) 211 Fed. 608 (window cords). If there is evidence of positive confusion as to source, caused by the imitation of the plaintiff's product either as to name, shape, color or appearance, equity will compel a defendant to take such precautions as will afford the maximum amount of protection to the plaintiff and the minimum amount of limitation on defendant's freedom of trade. *Standard Paint Co. v. Trinidad Asphalt Mfg. Co.* (1911) 220 U. S. 446, 31 Sup. Ct. 456 ("Rubbero" goods); *Garret & Co. v. Sweet Valley Wine Co.* (1918, N. D. Oh.) 251 Fed. 371 ("Virginia Dare" wines). Where the confusion is due to imitation of the product itself great difficulty often arises in the application of this doctrine, for a change in appearance of the article may be impossible without a destruction of its function. In such case the courts, ever jealous of creating a perpetual monopoly, refuse to grant the plaintiff any relief. *Marvel Co. v. Pearl* (1914, C. C. A. 2d) 133 Fed. 160 ("Whirling" spray syringe); *Diamond Expansion Bolt Co. v. U. S. Expansion Bolt Co.* (1911, N. Y.) 177 App. Div. 554, 164 N. Y. Supp. 443 (bolts and shields). *A fortiori* is this true where the connotation as to source has been built up under the protection of a patent and the patent has expired. *Daniels v. Electric Hose Co.* (1916, C. C. A. 3d) 231 Fed. 827. However, where the appearance of the article may be changed without destroying its usefulness for the purpose intended, the courts will not hesitate to compel the defendant so to distinguish his product as to cause the least possible confusion. *Yale & Towne Mfg. Co. v. Adler* (1907, C. C. A. 2d) 154 Fed. 37 (locks); *Ruchmore v. Manhatten Screw Co.* (1908, C. C. A. 2d) 163 Fed. 939 (auto-lamps); *Coca Cola Co. v. Gayola Co.* (1912, C. C. A. 6th) 200 Fed. 720 (beverage). It is submitted that the principal case properly placed upon the defendant the burden of showing that the placing of a distinguishing mark upon the product was not commercially feasible and would result in destroying his ability to compete with the plaintiff. It should be noted that Hough, J., who concurred in the result, expressed the view that the plaintiff would be entitled to have distinguishing marks placed upon the defendant's product even though that would make it commercially impossible for him to compete.

VENDOR'S LIENS—UNLIQUIDATED CLAIMS—BREACH OF CONTRACT TO SUPPORT GRANTOR.—A father conveyed to his daughter a farm, taking in exchange her promise to care for and support him until death and to pay his funeral expenses. The daughter did none of these things. In a suit against the daughter the administrator of the father asked not only for a personal judgment but also for the enforcement of an equitable lien on the land in question to secure the payment of the amount to be found due for breach of the contract. *Held,* that the administrator was entitled to the relief asked. *Zoeller v. Loi* (1918, Ind.) 120 N. E. 623.

As the daughter never performed any part of her agreement, the father would in many states have been entitled in equity to have the land restored to him and to an accounting of rents and profits. *McClelland v. McClelland* (1898) 176 Ill. 83, 51 N. E. 559; *Lowman v. Crawford* (1901) 99 Va. 688, 40 S. E. 17. This is on the ground that where a defendant has wholly repudiated or violated his contractual duty to the plaintiff, equity deems it only fair that restitution *in specie* should be decreed. Other jurisdictions deny relief, on the ground that the remedy for breach of contract is adequate. *Gardner v. Knight* (1899) 124 Ala. 273, 27 So. 298; *Anderson v. Gaines* (1900) 156 Mo.

664, 57 S. W. 726. Apparently courts of law have not developed a quasi-contractual remedy for restitution in the form of a judgment for the value of the land in an action of *indebitatus assumpsit*. Woodward, *Quasi-Contracts*, 416. In states which deny specific restitution in equity, this is entirely logical. In those granting equitable restitution, however, this result is probably due in part to the superiority of the equitable remedy, but also in part to the fact that *indebitatus* counts for "land sold and conveyed" were relatively rare at common law, especially as used to enforce quasi-contractual obligations. They were, however, not unknown. *Nugent v. Teachout* (1887) 67 Mich. 571, 35 N. W. 254. The grantor may of course sue the grantee for damages for breach of contract; and, if the agreement is to pay money for land conveyed, he may claim in England and many of our states a vendor's lien for the purchase price. In other jurisdictions no such lien is recognized unless provided for by agreement of the parties. Story, *Equity Jurisprudence* (14th ed.) sec. 1624. Whether such a lien exists where the agreement is not to pay money but to furnish support, etc., is a question upon which the authorities are in conflict. The fact that the claim of the vendor is for an unliquidated amount and will extend over so long a period of time has led many courts to reject the doctrine as inapplicable to such a situation. *Arlin v. Brown* (1862) 44 N. H. 102; 39 *Cyc.* 1792. Other states, however—of which Indiana is one—allow the lien even in such cases. *Hamilton v. Barricklow* (1884) 96 Ind. 398. Under the Indiana law, therefore, the result reached in the principal case is correct.